

Hon'ble President of India gives assent to promulgation of the Companies Amendment (Ordinance), 2018

The recommendation of the Union Cabinet for promulgation of the Companies Amendment (Ordinance), 2018 has been assented to by the President of India. The Ordinance, which has been promulgated is based on the recommendations of the Committee appointed by the Government to review offences under the Companies Act, 2013.

The twin objectives of this Ordinance are promotion of Ease of Doing Business along with better corporate compliance. The main amendments are as under;

- Shifting of jurisdiction of 16 types of corporate offences from the special courts to in-house adjudication, which is expected to reduce the case load of Special Courts by over 60%, thereby enabling them to concentrate on serious corporate offences. With this amendment the scope of in-house adjudication has gone up from 18 Sections at present to 34 Sections of the Act.
- The penalty for small companies and one person companies has been reduced to half of that applicable to normal companies.
- Instituting a transparent and technology driven in-house adjudication mechanism on an online platform and publication of the orders on the website.

- Strengthening in-house adjudication mechanism by necessitating a concomitant order for making good the default at the time of levying penalty, to achieve the ultimate aim of achieving better compliance

Declogging the National Company Law Tribunals (NCLT) by:

- enlarging the pecuniary jurisdiction of Regional Director by enhancing the limit up to Rs. 25 Lakh as against earlier limit of Rs. 5Lak hunder Section 441 of the Act;
- vesting in the Central Government the power to approve the alteration in the financial year of a company under section 2(41); and
- vesting the Central Government the power to approve cases of conversion of public companies into private companies.
- Recommendations related to corporate compliance and corporate governance include re-introduction of declaration of commencement of business provision to better tackle the menace of 'shell companies'; greater disclosures with respect to public deposits; greater accountability with respect to filing documents related to creation, modification and satisfaction of charges; non-maintenance of registered office to trigger de-registration process; and holding of directorships beyond permissible limits to trigger disqualification of such directors.

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Warm regards,

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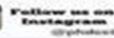
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